

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 5109/2025

Pikesh Khadiya S/o Shri Sakan Singh Khadiya, Aged About 24 Years, Resident Of Bagaycha P.o. Sajjangarh, District Banswara, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Department Of Education, Government Of Rajasthan, Secretariat, Jaipur (Raj.).
2. The Secretary, Department Of Rural Development And Panchayati Raj, Government Of Rajasthan, Secretariat, Jaipur.
3. The Chief Executive Officer, Zila Parishad, Banswara.
4. The Block Development Officer, Panchayat Samiti Sajjangarh, District Banswara.
5. The District Education Officer (Headquarters), Elementary Education, Banswara.

-----Respondents

For Petitioner(s)	:	Mr. Hemant Singh Solanki
For Respondent(s)	:	Mr. Digvijay Singh Sodha & Mr. Samarjeet Singh Bhati for Mr. Kamlesh Sharma, AGC

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

25/05/2026

1. By way of filing the present writ petition, the petitioner has prayed for the following reliefs:-

"It is, therefore, respectfully prayed that this Writ Petition may kindly be accepted and allowed and:-

a) by an appropriate writ, order or direction, impugned order dated 13.01.2025 (Annex.06) passed by respondent No.5 may kindly be quashed and set aside and the petitioner may be reinstated in service with all consequential benefits;

b) Any other order or direction, which this Hon'ble Court deem just and proper be passed in favour of the petitioner;

c) Costs of this petition may kindly be allowed to the petitioner;"

2. Learned counsel for the parties jointly submitted that the controversy involved in the present writ petition has already been set to rest by the Co-ordinate Bench of this Court in the case of **Laxminarayan Singh Vs. State of Rajasthan & Ors.** in S.B. CWP No.3634/2022 decided on 05.03.2026 wherein Co-ordinate Bench of this Court while quashing the impugned charge-sheet has given liberty to the respondents to proceed in accordance with law. The order dated 05.03.2026 passed by Co-ordinate Bench of this Court in the case of **Laxminarayan Singh (Supra)** has been reproduced below for ready reference:-

"1. For the reasons mentioned in the early hearing application, the same is allowed; and with the consent of the learned counsel for the parties, the writ petition has been taken up and heard for final disposal at the admission stage.

2. The challenge in the present writ petition is to the charge-sheet dated 02.02.2022 (Annex.7) issued by the District Education

Officer (Headquarters), Elementary Education, Banswara.

3. The facts which are not in dispute are that the petitioner is a Primary School Teacher. While he was working so, the present proceedings were drawn on the premise that the petitioner obtained the employment based on the forged documents. Initially, the petitioner was suspended in contemplation of the inquiry and the suspension order has been challenged on the ground that the suspension order has been passed by the incompetent authority. The said writ petition (No. 2136/2022) was allowed; and liberty was given to the respondents to pass fresh orders. Subsequently, the present charge-sheet has been issued which is under challenge.

4. In the present case, a challenge has been made on the ground that the District Education Officer is not a competent authority to initiate proceedings against the petitioner, whose cadre is encadred under Section 89 of the Rajasthan Panchayati Raj Act, 1994.

5. The case of the respondents is that the petitioner obtained employment based on the invalid and forged qualifications which are mandatory for appointment of the petitioner to the post of Primary Teacher. Subsequently, the respondents have received a complaint from a third party alleging that the petitioner had secured appointment by producing forged documents. A three members committee was constituted to conduct a preliminary inquiry into the allegations levelled in the complaint. The said committee found that the petitioner obtained employment based on the forged documents and based upon the finding of the committee, the present charge-sheet has been issued to the petitioner.

6. It is also the case of the respondents that the appointment was obtained based on the forged certificates. As such, the appointment is a void appointment and there is no need to follow the regular procedure.

7. It is also the submission of the respondents that the District Education Officer, after serving the charge-sheet, has obtained the concurrence of the District Establishment Committee. In view of the concurrence of the District Establishment Committee, the charge-sheet cannot be quashed.

8. To answer the above contentions, it is apt to refer to Section 89 and Section 91 of the Rajasthan Panchayati Raj Act, 1994 and Rule 258 of the Rajasthan Panchayati Raj Rules, 1996 which reads as under:-"

"89. Constitution of the Rajasthan Panchayat Samiti and Zila Parishad Service.-(1) There shall be constituted for the State service designated as the Rajasthan Panchayat Samiti and Zila Parishad Service and hereafter in this section referred to as the service and recruitment thereto shall be made district-wise[:]

Provided that selection for the posts specified in clause (i), (iii) and (iv) of sub-section (2) shall be made at the State Level.

(2) The Service may be divided into different categories, each category being divided into different grades, and shall, consist of -

(i) Gram Vikas Adhikari

(ii) Deleted

(iii) Primary and Upper Primary school teachers;

(iv) Ministerial establishment, (except Accountants and Junior Accountants); and

(v) Prabodhak and Senior Prabodhak

(3) The State Government may encadre in the Service any other category or grade of officers and employees of Panchayat Samitis and Zila Parishads and not included in Class IV Services.

(4) The State Government may prescribe the duties, functions and powers of each grade and each category of officers and employees encadred in service.

(5) All appointments to posts in the service shall be made -

(a) by direct recruitment; or

(b) by promotion; or

(c) by transfer.

(6) Appointment by direct recruitment [to the posts specified in clause (ii) of sub-section (2) and on the posts encadred under sub-section (3) shall be made by a Panchayat Samiti or Zila Parishad, as the case may be, in accordance with the rules made in this behalf by the State Government from out of the persons selected for the posts in a grade or category in the district by the District Establishment Committee referred to in sub-sec. (1) of Sec. 90.

(6A) Appointment by direct recruitment to the posts specified in clauses (i) and (iv) of sub-sec. (2) shall be made by a Panchayat Samiti or Zila Parishad, as the case may be, in accordance with the rules made in this behalf by the State Government, from out of the persons selected for the posts by Rajasthan Subordinate and Ministerial Services Selection Board in such manner as may be prescribed.

(6AA) Appointment by direct recruitment to the posts specified in clause (iii) of sub-section (2) shall be made by a Panchayat Samiti or Zila Parishad, as the case may be, in accordance with the rules made in this behalf by the State Government, from out of the

persons selected for the posts by such agency in such manner as may be prescribed; and

(6B) Appointment on the post specified in clause (v) of sub-section (2) shall be made by Additional Chief Executive Officer-cum-District Education Officer (Elementary Education) of the district concern in accordance with the rules made in this behalf by the State Government from out of persons selected for the posts by the recruitment committee constituted by the Government in accordance with the rules made by the State Government in this behalf:

Provided that in case of posts reserved for widows and divorcee women, selection shall be made in such manner and by such Screening Committee as may be prescribed by State Government.

(7) The appointing authority may, so long as selection is not made by the District Establishment Committee or selected persons are not available for appointment, make appointments in the prescribed manner on temporary basis for a period not exceeding six months and the said period may be extended only after consultation with the District Establishment Committee[:]

Provided that no appointment on temporary basis shall be made on the posts specified in clause (iii) of sub-section(2)

(8) Appointments by -

(i) promotion shall be made by the Panchayat Samiti or the Zila Parishad, as the case may be, in the prescribed manner from amongst persons whose names have been entered in the list prepared by the District Establishment Committee, and

(ii) transfer shall be made after consultation with the Pradhans or the Pramukhs, as the case may be of the Panchayat Samitis or the Zila Parishad from and to which such transfer is proposed to be made.

[8-A] Notwithstanding anything contained in Sub-sec.

(8), the State Government may transfer any member of the service (from any place of posting to any other place of posting whether within the same Panchayat Samiti or) from one Panchayat Samiti to another Panchayat Samiti, whether within the same district or outside it, from one Zila Parishad to another Zila Parishad, or from a Panchayat Samiti to a Zila

Parishad or from Zila Parishad to a Panchayat Samiti and may also stay the operation of, or cancel, any order of transfer made under Sub-sec. (8), or the rules made thereunder.]

(9) Persons holding posts encadred in the service shall also be eligible for appointments or promotion to posts in a State Service or under the State Government in accordance with the rules made in that behalf by the State Government and subject to terms and conditions laid down in such rules, and the persons so appointed or promoted shall count the period of their holding posts in the service constituted under this section for the purpose of seniority and pension.

(10) Persons holding appointment in a State Service shall also be eligible for appointment by transfer to a post encadred in the service constituted under this section in accordance with rules made in this behalf by the State Government and on terms and conditions laid down in those rules.

(11) Every person holding a post encadred in the service constituted under this section shall be entitled to the payment

of a pension by the State Government out of the consolidated fund of the State in accordance with rules made by it in that behalf."

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"91. Disciplinary proceedings against and punishments inflicted on staff of Panchayat Samitis and Zila Parishads.- (1) The conduct of disciplinary proceedings that may be started against and the punishments that may be inflicted in such proceedings on, the officers and servants of Panchayat Samitis and Zila Parishads, other than officers referred to in Secs. 79 and 82 shall be governed and regulated by rules made by the State Government in this behalf.

(2) Subject to such rules-

(a) all or any of the prescribed punishments may be inflicted on all persons holding posts in Class-IV Services-(i) by the Vikas Adhikari of a Panchayat Samiti, if such persons are servants of that Panchayat Samiti; (xxx)

(ii) by the Chief Executive Officer of a Zila Parishad, if they are servants of that Zila Parishad; (xxx)

(iii) where such services are in connection with the elementary education and such services are under the control of Panchayat Samiti, by the Block Elementary Education Officer of the Panchayat Samiti, and

(iv) where such services are in connection with elementary education and such services are under the control of the Zila Parishad, by the District Elementary Education Officer.]

(b) the punishment of censure or withholding of increment or promotion may with the approval of the Chairperson of the concerned Panchayati Raj Institutions be inflicted on all persons holding appointments to posts encadred in the services constituted under Sec. 89-

(i) by the Vikas Adhikari of a Panchayat Samiti, if such persons hold their appointment under the Panchayat Samiti; and

(ii) by the Chief Executive Officer of the Zila Parishad, if they hold their appointment under that Zila Parishad.

(3) All other prescribed punishments may be inflicted on the persons holding appointments on the posts encadred in the service in a Panchayat Samiti or a Zila Parishad by the District Establishment Committee.

(4) An appeal may be preferred-

(a) against an order made by the 1[Vikas Adhikari/Block Elementary Education Officer of the Panchayat Samiti or the Chief Executive Officer/District Elementary Education Officer of the Zila Parishad] to the District Establishment Committee constituted under Sec. 90; and

(b) against an order made by the District Establishment Committee under Sub-sec. (3) to the State Government.

(5) An appeal may be preferred under Sub-sec. (4) within a period of 90 days from the date of the order appealed from and the time taken for obtaining a copy of such order shall be executed from the said period."

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"Rule 258 : Categories of posts : -

(1) There shall be the following categories of posts to be appointed in Panchayat Samitis and Zila Parishad:-

(a) State Service posts : -

(i) Chief Executive Officer

(ii) Vikas Adhikari

(iii) Accounts Officers

(iv) Assistant Engineers

(v) And such other categories of posts as are prescribed by the Government from time to time.

(b) Subordinate Service: -

(i) Extension Officer (Panchayat, Education, Co-operative, progress).

(ii) Assistant Accounts Officer.

(iii) Accountant/Junior Accountant

(iv) Junior Engineer

[(c) Ministerial and subordinate posts in Panchayat Samiti and Zila Parishad service-

(i) Assistant Office Superintendent;

(ii) Clerk Grade I;

(iii) Clerk Grade II;

(iv) Drivers;

(v) Primary and Upper Primary School Teachers;

(vi) Village level worker-cum-Secretary Panchayat;

(vii) Fitter; and

(viii) Hand Pump Mistry.]

(d) Class IV Service posts.

[(e) Ex officio officer:

(i) Ex officio Panchayat Elementary Education Officer.]

(2) Panchayat may however appoint part time person on contract basis with prior permission of the Chief Executive Officer for management of properties and cattle pound etc., out of own income and Class IV servant for panchayat office out of general purpose grant from the State Government.

[(3) Panchayat may appoint any person as Gram Panchayat Sahayak, on part time or on fixed honorarium or a contract basis, for Panchayat, Office or for any other work with prior permission of the Chief Executive Officer. He shall be paid from the grant received for the purpose from the State Government on recommendation of the State Finance Commission or out of own income of the Panchayat.]”

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9. From a reading of Section 89 of the Rajasthan Panchayati Raj Act, 1994, it is clear that the petitioner's services are governed under Section 89 for the reason that the petitioner is working as a Primary Teacher.

10. Section 91(2) (b) of the Rajasthan Panchayati Raj Act, 1994 deals with imposition of punishment by the competent authority like, punishment of censure or withholding of increment or promotion. The competent authority is Vikas Adhikari in respect of the employees covered under Section 89 of the Rajasthan Panchayati Raj Act, 1994 other than Class IV employee, in case of the employees working under the Panchayat Samiti with the approval of the Chairperson of the concerned Panchayat Raj Institution or Chief Executive Officer for the employees under Zila Parishads after obtaining the prior approval of the Chairperson of Zila Parishad. In respect of all other punishments, the District Establishment Committee is the competent authority.

11. Rule 258 of the Rajasthan Panchayati Raj Rules, 1996 clearly speaks that the petitioner's services comes under the Ministerial and Subordinate Services and not Class IV services.

12. In the present case, admittedly, the charge-sheet is flowing from the District Education Officer. He is neither authorised to do so under Section 91(1)(b) nor under Section 91(1)(3) of the Rajasthan Panchayati Raj Act, 1994. In such circumstances, the charge-sheet is not flowing from the competent authority. On this ground alone, the writ petition is required to be allowed.

13. In the result, the instant writ petition is allowed. The charge-sheet dated 02.02.2022 (Annex.7) is quashed and set

aside. The respondents are at liberty to proceed with the matter in accordance with the above provisions of law.

3. In view of above and keeping in view the joint submission made at Bar by the learned counsel for the parties that the controversy stands covered by the judgment passed in the case of ***Laxminarayan Singh (supra)***, the present writ petition is allowed. The impugned charge-sheet dated 13.01.2025 (Annexure-6) issued by District Education Officer is quashed and set aside. However, the present writ petition shall not preclude competent authority i.e. District Establishment Committee to issue fresh charge-sheet against the petitioner in accordance with law.

(KULDEEP MATHUR),J